$400

17 0568

ELIAS B. LANDAU, ESQUIRE
I.D. No, 12884
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Attorney for Plaintiff

JURY TRIAL DEMANDED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALEXANDER H. F. EMMERT	:	**CIVIL ACTION**
504 Valley Park Road	:	
Phoenixville, PA 19460	:	
Plaintiff	:	**NO.**
vs.	:	
MATTHEW A. BASHAM	:	
273 Mike Drive	:	
Elkton, MD 21921	:	
Defendant	:	

CIVIL ACTION COMPLAINT

PARTIES

1. Plaintiff, Alexander H. F. Emmert, currently resides at 504 Valley Park Road, Phoenixville, Pennsylvania 19481.

2. Defendant, Matthew A. Basham, is a citizen of the State of Maryland and currently resides at 273 Mike Drive, Elkton, MD 21921.

3. The amount in controversy is in excess of $75,000.00 (Seventy-Five Thousand Dollars).

JURISDICTION

4. Plaintiff incorporates herein by reference as if specifically pleaded the allegations contained in the paragraphs above.

5. This is a civil action seeking damages and injunctive relief for breach of contract and for wrongful use of a copyright.

6. This Court has jurisdiction as a result of diversity of citizenship of the parties.

7. Venue is proper for the above reasons.

STATEMENT OF CLAIM

8. Plaintiff incorporates herein by reference as if specifically pleaded the allegations contained in the paragraphs above.

9. Plaintiff, Alexander H. F. Emmert, created "The Wendigo" story, characters, scenario and six pages of dialogue to produce for an anthology film.

10. Plaintiff, Alexander H. F. Emmert enlisted volunteer actors and crew for the anthology film project.

11. Defendant, Matthew A. Basham, was one of the volunteer crew members, credited as Assistant Director and Cinematographer on the film project "The Wendigo."

12. Through messages on site Facebook with Plaintiff and Production Team (CFA Weiss, Mallory Holloway, Christopher Montero), Defendant, Matthew A. Basham, asked questions regarding Plaintiff, Alexander H. F. Emmert's script and volunteered to convert the script into shooting format with CFA Weiss.

13. Following production, Defendant, Matthew A. Basham, wrongfully filed sole copyright on the script and film and subsequently demanded a monetary amount from Plaintiff, Alexander H. F. Emmert to release the script and film to Plaintiff, Alexander H. F. Emmert, the rightful owner.

14. Defendant, Matthew A. Basham's conduct is causing, and unless immediately enjoined, will continue to cause, enormous and irreparable harm to said Plaintiff.

15. Defendant, Matthew A. Basham, does not have license, authorization, permission or consent to use the aforesaid Script and/or Film.

16. Plaintiff inter alia seeks monetary damages, as well as injunctive relief for Defendant's willful, intentional and purposeful use and exploitation of the Script and Film of "The Wendigo."

COUNT I
MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS/ COPYRIGHT INFRINGEMENT

17. Plaintiff incorporates herein by this reference each and every averment contained in paragraphs 1 through 16, inclusive.

18. Through his conduct averred herein, Defendant, Matthew A. Basham, has infringed Plaintiff's rights of the Copyright laws of the United States.

19. Defendant's acts of infringement/misappropriation of property rights are willful, intentional and purposeful, in disregard of and with indifference to Plaintiff's rights.

20. As a direct and proximate result of said infringement/misappropriation of property rights by Defendant. Plaintiff is entitled to damages in an amount to be proven at trial, including but not limited to his costs in the production of the project.

21. Plaintiff is also entitled to Defendant's profits attributable to the above infringement, including an accounting of and a constructive trust with respect to such profits.

22. Plaintiff is further entitled to his attorneys' fees and full costs pursuant to

17 U.S.C. §505 and otherwise according to law.

23. As a direct and proximate result of the foregoing acts and conduct, Plaintiff has sustained and will continue to sustain substantial, immediate, and irreparable injury. Plaintiff is informed and believes and avers that unless enjoined and restrained by this Court, Defendant will continue to infringe Plaintiff's rights in the Infringed Script and Film of "The Wendigo." Plaintiff is entitled to preliminary and permanent injunctive relief to restrain and enjoin Defendant's continuing infringing conduct.

WHEREFORE, Plaintiff, Alexander H. F. Emmert prays for Judgment against Defendant, Matthew A. Basham, as follows:

1. For damages in such amount as may be found, or as otherwise permitted by law;

2. For an accounting of, and the imposition of constructive trust with respect to Defendant's profits attributable to his infringements of Plaintiff's copyright rights in the Infringed Script and Film of "The Wendigo."

3. For a preliminary and permanent injunction prohibiting Defendant and any and all agents, servants, employees, officers, successors, licensees and assigns, and all persons acting in concert or participation with each or any of them, from continuing to infringe Plaintiff's rights to copyright in the Infringed Script and/or Film, "The Wendigo."

4. For prejudgment interest according to law.

5. For Plaintiff's attorney fees, costs, and disbursements in this action.

6. For such other and further relief as the Court may deem just and proper.

(EMMERT v. BASHAM) (US DIST COURT)

, ESQ

Elias B. Landau, Esquire
Attorney I. D. 12884
Attorney for Plaintiffs

JS 44 (Rev. 07/16) JP 17-cv-0568

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
ALEXANDER H. F. EMMERT
540 Valley Park Road
Valley Forge, Pennsylvania 19481-0033

DEFENDANTS
MATTHEW A. BASHAM
273 MIKE DRIVE
ELKTON, MARYLAND

(b) County of Residence of First Listed Plaintiff CHESTER
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant CECIL
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
ELIAS B. LANDAU, ESQUIRE
P. O. BOX 443
BALA CYNWYD, PA 19004
(610) 664-5306

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☒ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☒ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

V. ORIGIN *(Place an "X" in One Box Only)*

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
17 U.S. CODE S.S. 506 (A.C.E.)
Brief description of cause:
Defendant knowingly filed copyright as sole author on intellectual Property created and owned by Plaintiff

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND $ Over $75,000.00
CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*:
JUDGE ____________ DOCKET NUMBER ____________

DATE
02/06/2017

SIGNATURE OF ATTORNEY OF RECORD
Elias B Landau, ESQ

FOR OFFICE USE ONLY

RECEIPT # ______ AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

FEB - 7 2017

UNITED STATES DISTRICT COURT 17 0568

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 504 Valley Park Road, Phoenixville, PA 19460

Address of Defendant: 273 Mike Drive, Elkton, MD 21921

Place of Accident, Incident or Transaction: Pennsylvania

(*Use Reverse Side For Additional Space*)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes☐ No☒ XX

Does this case involve multidistrict litigation possibilities? Yes☐ No☒ XX

RELATED CASE, IF ANY:

Case Number: ______ Judge ______ Date Terminated: ______

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
   Yes☐ No☒ XX
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
   Yes☐ No☒ XX
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No☒ XX
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
   Yes☐ No☒ XX

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
    (Please specify) Copyright Infringement/Misappropriation of Intellectual Property Rights

B. *Diversity Jurisdiction Cases:*

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☒ All other Diversity Cases
   (Please specify) ______

ARBITRATION CERTIFICATION

(*Check Appropriate Category*)

I, ELIAS B. LANDAU, ESQUIRE, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 02/06/2017 — Elias B. Landau, Esquire [signature] ESQ — 12884

Attorney-at-Law — Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 02/06/2017 — Elias B. Landau, Esquire [signature] ESQ — 12884

Attorney-at-Law — Attorney I.D.#

CIV. 609 (5/2012)

FEB -7 2017

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

ALEXANDER H. F. EMMERT : CIVIL ACTION

v.

MATTHEW A. BASHAM NO. 17 0568

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

February 6, 2017	**Elias B. Landau, Esquire**	**Plaintiff, Alexander H. F. Emmert**
Date	**Attorney-at-law**	**Attorney for**
(610) 664-5306	(610) 664-5307	Lawyerlandau@aol.com
Telephone	**FAX Number**	**E-Mail Address**

(Civ. 660) 10/02

FEB -7 2017